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DOCKET NO.: 6009-0012

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF: : GROUP ART UNIT: 1651
Renata Maria Anna CAVALIERE ved. ET AL : EXAMINER: AFREMOVA, V.
SERIAL NO: 09/525,940 : BATCH NO: D22
FILED: MARCH 15, 2000 : ALLOWED: MARCH 9, 2001
FOR: ENTERAL DIETARY :
COMPOSITIONS COMPRISING
STREPTOCOCCUS
THERMOPHILUS AND
BIFIDOBACTERIUM LONGUM

PETITION UNDER 37 C.F.R. 1.182

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

Applicants respectfully request consideration of the references submitted by applicants under 37 C.F.R. 1.97 on February 20, 2001.

On February 20, 2001 Applicants submitted a Second Preliminary Amendment, Terminal Disclaimer, and PTO Form 1449 under 37 C.F.R. 1.97. As evidence thereof, Applicants submit herewith copies of a Date-Stamped Filing Receipt, Preliminary Amendment, Terminal Disclaimer, and Form-1449. Examiner acknowledged receipt of the Form 1449 as evidenced by the Notice of Allowability dated March 9, 2001. The Examiner signed the Form-1449 but failed to initial all of the references.

March 9, 2001

Applicants respectfully request that the Office provide an initialed and signed copy of
Applicant's Form 1449.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

COPY

Norman F. Oblon
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OSMM&N File No. 6009-0012-0 CONT

Dept.: Chemical

By: NFO:RLT:dlc

Serial No. 09/525.940

In the matter of the Application of: Renata Maria Anna CAVALIERE ved. VESELY ET AL

For: ENTERAL DIETARY COMPOSITIONS COMPRISING STREPTOCOCCUS THERMOPHILUS AND BIFIDOBACTERIUM LONGUM

The following has been received in the U.S. Patent Office on the date stamped hereon:

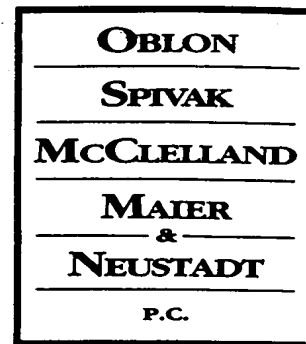
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|-----------------------------------------------------------------------------|-----------------|------------------------------------------------------------|
| <input type="checkbox"/> pp. Specification & | Claims/Drawings | Sheets |
| <input type="checkbox"/> Combined Declaration, Petition & Power of Attorney | | pages |
| <input type="checkbox"/> List of Inventor Names and Addresses | | |
| <input type="checkbox"/> Utility Patent Application | | <input type="checkbox"/> CPA |
| <input type="checkbox"/> Request for Priority | | <input type="checkbox"/> Priority Doc |
| <input checked="" type="checkbox"/> Check for \$110.00 | | <input checked="" type="checkbox"/> Dep. Acc't. Order Form |
| <input type="checkbox"/> Fee Transmittal Form | | |
| <input type="checkbox"/> Assignment/PTO 1595 pages: | | |
| <input type="checkbox"/> Letter to Official Draftsman | | |
| <input type="checkbox"/> Letter Requesting Approval of Drawing Changes | | |
| <input type="checkbox"/> Drawings | sheets | <input type="checkbox"/> Formal |
| <input checked="" type="checkbox"/> PTO Cover Letter | | |
| <input checked="" type="checkbox"/> Second Preliminary Amendment | | |
| <input type="checkbox"/> Information Disclosure Statement | | <input checked="" type="checkbox"/> Form PTO 1449's (2pp.) |
| <input type="checkbox"/> Cited References | | |
| <input type="checkbox"/> Search Report | | |
| <input type="checkbox"/> Statement of Relevancy | | <input type="checkbox"/> Cited Pending Applications |
| <input type="checkbox"/> IDS/Related/List of Related Cases | | <input type="checkbox"/> Election Response |
| <input type="checkbox"/> Restriction Response | | |
| <input type="checkbox"/> Declaration Under 37 C.F.R. §1.132 | | |
| <input type="checkbox"/> Request for Extension of Time | | |
| <input type="checkbox"/> Notice of Appeal | | |
| <input type="checkbox"/> Brief | | |
| <input type="checkbox"/> Issue Fee Transmittal | | |
| <input type="checkbox"/> White Advance Serial Number Card | | |
| <input checked="" type="checkbox"/> Terminal Disclaimer | | |
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Due Date: N/A



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Docket No.: 6009-0012-0 CONT

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

RE: Application Serial No.: 09/525,940
Applicants: Renata Maria Anna CAVALIERE ved., et al.
Filing Date: March 15, 2000
For: ENTERAL DIETARY COMPOSITIONS COMPRISING
STREPTOCOCCUS THERMOPHILUS AND BIFIDOBACTERIUM
LONGUM
Group Art Unit: 1651
Examiner: V. AFREMOVA

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SIR:

Attached hereto for filing are the following papers:

**PETITION UNDER 37 C.F.R. 1.182; PTO COVER LETTER (copy as filed Feb. 20, 2001);
SECOND PRELIMINARY AMENDMENT (copy as filed Feb. 20, 2001); TERMINAL DISCLAIMER
(copy as filed Feb. 20, 2001); PTO FORM-1449(2pp., copy as filed Feb. 20, 2001);
DATE-STAMPED FILING RECEIPT (copy as filed Feb. 20, 2001)**

Our check in the amount of \$130.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

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THAN VIRGINIA
* JAPANESE PATENT ATTORNEY
* REGISTERED PATENT AGENT

Docket No.: 6009-0012-0 CONT

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

RE: Application Serial No.: 09/525,940
Applicant(s): Renata Maria Anna CAVALIERE ved. VESELY ET AL
Filing Date: MARCH 15, 2000
For: ENTERAL DIETARY COMPOSITIONS COMPRISING
STREPTOCOCCUS THERMOPHILUS AND BIFIDOBACTERIUM LONGUM
Group No.: 1651
Examiner: AFREMOVA

SIR:

Attached hereto for filing are the following papers:

SECOND PRELIMINARY AMENDMENT
TERMINAL DISCLAIMER
FORM PTO 1449's (2pp.)

Our check in the amount of \$ 110.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 CFR 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

COPY

Norman F. Oblon
Attorney of Record
Registration No. 24,618

Richard L. Treanor, Ph.D.
Registration No. 36,379



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DOCKET NO.: 6009-0011-0 PCT of
6009-0011-0 PCT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

Renata Maria Anna CAVALIERE ved.
VESELY ET AL

: GROUP ART UNIT: 1651

SERIAL NO.: 09/525,940

FILED: MARCH 15, 2000

: EXAMINER: AFREMOVA

FOR: ENTERAL DIETARY COMPOSITIONS
COMPRISING STREPTOCOCCUS
THERMOPHILUS AND BIFIDOBACTERIUM
LONGUM

SECOND PRELIMINARY AMENDMENT

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

Responsive to the telephone conference of February 14, 2001, Applicants submit
herewith the requested Terminal Disclaimer.

REMARKS

Applicants would like to thank Examiner Afremova for the helpful and courteous
telephone discussion of February 14, 2001. As discussed, a Terminal Disclaimer over parent
Serial Number 08/952,820 (now U.S. Patent No. 6,077,504) will place this case in condition
for allowance. This Terminal Disclaimer is attached hereto. In addition, Applicants have
submitted herewith Form PTO-1449's listing the references considered in the parent case -
the references cited by the Examiner and those cited in the International Search Report. As
these references have all been considered and are of record in the parent, they have not again
been submitted in this case. However, Applicant would like these references to be printed on

the front face of this patent, and for this reasons the attached PTO 1449's are attached.

Should anything further be necessary the Examiner is requested to contact Applicants' below-signed attorney.

Accordingly, in view of the telephone discussion and the attached Terminal Disclaimer Applicants submit that this case is now in condition for allowance. Early notification to this effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

COPY

Norman F. Oblon
Attorney of Record
Registration No.: 24,618

Richard L. Treanor, Ph.D.
Registration No.: 36,379

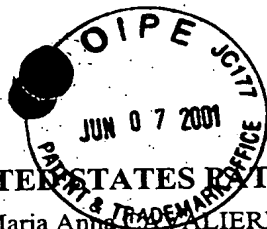


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Docket No. 6009-0012-0 CONT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: Renata Maria Anna CAVALIERE ved.
VESELY ET AL

GROUP ART UNIT: 1651

SERIAL NO: 09/525,940

EXAMINER: AFREMOVA

FILED: March 15, 2000

FOR: ENTERAL DIETARY COMPOSITIONS COMPRISING STREPTOCOCCUS
THERMOPHILUS AND BIFIDOBACTERIUM LONGUM

TERMINAL DISCLAIMER

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

Now comes the undersigned, Attorney of Record in the present application, who avers as follows: Renata Maria Anna CAVALIERE ved. VESELY and Claudio DE SIMONE

are the owners of the entire right, title and interest in and to the invention claimed and disclosed in the above-captioned patent application.

Renata Maria Anna CAVALIERE ved. VESELY and Claudio DE SIMONE hereby disclaims the terminal part of any patent granted on the above-captioned application, which would extend beyond the expiration date of the full statutory term as presently shortened by any terminal disclaimer of Patent No. 6,077,504, and hereby agrees that any patent so granted on said above-captioned application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to United States Patent No. 6,077,504, this agreement to run with any patent granted on the above-captioned application and to be binding upon the grantee, its successors or assigns.

Renata Maria Anna CAVALIERE ved. VESELY and Claudio DE SIMONE do not disclaim any terminal part of any patent granted on the above-captioned application that would extend to the full statutory term as presently shortened by any terminal disclaimer of Patent No. 6,077,504 in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. 1.321(a), has all claims canceled by a reexamination certificate, or is otherwise terminated prior to the expiration of its statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

Respectfully Submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

COPY

Richard L. Treanor, Ph.D.
Registration No. 36,379

Date Signed

Form PTO 1449 (Modified)		U.S. DEPARTMENT OF COMMERCE PATENT AND TRADE MARK OFFICE		ATTY DOCKET NO. 6009-0012-0 CONT		SERIAL NO. 09/525,940	
LIST OF REFERENCES CITED BY APPLICANT				APPLICANT Renata Maria Anna CAVALIERE ved. VESELY ET AL			
				FILING DATE March 15, 2000		GROUP 1651	
U.S. PATENT DOCUMENTS							
EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPROPRIATE
	AA	5,716,615	02/10/98	CAVALIERE ET AL			
	AB	5,310,555	05/10/94	ZIMMER			
	AC	5,494,664	02/27/96	BRASSAT ET AL			
	AD						
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FOREIGN PATENT DOCUMENTS							
		DOCUMENT NUMBER	DATE	COUNTRY	TRANSLATION YES NO		
	AO	EP 0 555 618	08/18/93	EUROPE			
	AP						
	AQ						
	AR						
	AS						
	AT						
	AU						
	AV						
OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, etc.)							
	AW	DATABASE WPI; Section Ch, Week 8943; Derwent Publications Ltd., London, GB; Class D13, AN 89-312205, XP002040064 & JP 01 228 456 A (SNOW BRAND MILK PROD CO., LTD.), 12 September 1989					
	AX	PATENT ABSTRACTS OF JAPAN; Vol. 016, No. 049 (C-0908), 7 February 1992 & JP 03 251159 A (NIPPON OIL & FATS CO., LTD.), 8 November 1991					
	AY	Elmer et al, "Biotherapeutib Agents", JAMA, March 20, 1996, Vol. 275, No. 11, pp. 870-876					
	AZ	Saavedra et al, "Feeding of Bifidobacterium bifidum and Streptococcus thermophilus to infants in hospital for prevention of diarrhea and sheeing of rotavirus", October 15, 1994, The Lancet, Vol. 344, pp. 1046-1049					
Examiner					Date Considered		
*Examiner: Initial if reference is considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.							



Form PTO 1449 (Modified)		U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE		ATTY DOCKET NO. 6009-0012-0 CONT		SERIAL NO. 09/525,940	
LIST OF REFERENCES CITED BY APPLICANT				APPLICANT Renata Maria Anna CAVALIERE ved. VESELY ET AL			
				FILING DATE MARCH 15, 2000		GROUP 1651	
OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, etc.)							
	AAA	MASSIMO CAMPIERI ET AL; "Probiotics in Inflammatory Bowel Disease: New Insight to Pathogenesis of a Possible Therapeutic alternative?"; GASTROENTEROLOGY, Vol. 116, No. 5; May 1999; pp. 1246-1249					
	AAB	A. VENTERI ET AL; "Impact on the composition of the faecal flora by anew probiotic preparation: preliminary data on maintenance treatment of patients with ulcerative colitis"; Aliment Pharmacol Ther.; pp. 1103-1108; 1999					
	AAC	William J. Sandborn et al; "Medical Therap for Induction and maintenance of Remission in Pouchitis: A Systematic Review"; Inflammatory Bowel Diseases®, Vol. 5, No. 1, February 1999, pp. 33-39					
	AAD	G. BAZZOCCHI ET AL; "Change in Colonic Functon and Fecal Microbiological and Enzymatic Activities Induced by a New Probiotic Preparation"; Gastroenterology International					
	AAE	P. GIONCHETTI ET AL; "Microflora in the IBD Pathogenesis Possible Therapeutic Use of Probiotics"; Gastroentrolgy International, Vol. 11, Suppl. 1.; pp. 108-110; 1998					
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	AAG						
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	AAI						
	AAJ						
	AAK						
	AAL						
	AAM						
	AAN						
	AAO						
	AAP						
	AAQ						
Examiner						Date Considered	
*Examiner: Initial if reference is considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.							